

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41707 of 2022

Arising Out of PS. Case No.-73 Year-2022 Thana- CHERIYA BARIYARPUR District-
Begusarai

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Rakesh Kumar Yadav, S/o Late Posan Yadav, R/o Village- Kumbhi, P.S.-
Cheriya Bariyarpur, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Mohammed Arif, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 28-09-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Ajay Kumar Sinha, learned counsel for the
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Cheria Bariyarpur P.S. Case No. 73 of 2022
registered for the offence punishable under Section 30 (a) of the
Bihar Prohibition and Excise Act, 2018.

The police on a secret information that the petitioner
is engaged in trafficking of illicit liquor and has concealed the
same in the filed, raided the place of occurrence and on search



24.375 litres of Indian made foreign liquor was recovered.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R., it would be evident that the alleged recovery has been made from an open field, which is accessible to all and the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from his possession. It is next submitted that there is no compliance of Section 100 of the Cr.P.C, apart from the defiance of Sections 81 and 82 of the Bihar Prohibition and Excise Act, 2016. He also submits that prior to the institution of this case, the petitioner is also named in another case in 2016, in which he is already on bail and so far the present case is concerned, the petitioner is in custody since 26.04.2022 and now the investigation of the crime is already completed and charge-sheet has been submitted.

On the other hand learned APP for the State opposes the bail application.

Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made from an open field, which is accessible to all and so far the petitioner is concerned, he is in custody since 26.04.2022, apart from the fact that investigation of the crime is already completed and charge-sheet has been submitted, let the



petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Excise Judge-I, Begusarai in connection with Cheriya Bariyarpur P.S. Case No. 73 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain physically present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this



purpose or in the name of verification.

(Harish Kumar, J)

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